DOCUMENT RESUME

ED 248 416 CG 017 688

TITLE Certification of the Professional Social Worker. New York State.
INSTITUTION New York State Education Dept., Albany.
PUB DATE 84
NOTE 39p.
PUB TYPE Guides - Non-Classroom Use (055) -- Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS *Certification; Social Work; *Social Workers; *State Legislation; State Licensing Boards
IDENTIFIERS *New York

ABSTRACT

This brochure on New York State regulations for certification of the professional social worker opens with a brief statement on the need for certification. Qualifications for licensure for both United States educated and foreign educated applicants are outlined and the limited permit is explained. Other topics covered include registration; professional conduct; information about the examination procedures, with a special note for handicapped persons; sample examination questions; and exam score information. Information on insurance qualification for social workers is provided. The remainder of the booklet presents the text of the licensure law, which describes professional licensure and also deals with state management, professional misconduct and unauthorized acts of a professional, and the state's education regulations for licensed social workers. (JAC)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED248416

New York State

CERTIFICATION of the PROFESSIONAL SOCIAL WORKER

STATE BOARD FOR SOCIAL WORK

ETHEL BEVILLE, White Plains
CHARLES BONASERA, Williamsville
CATHERINE BUTLER, Ozone Park
ROSA MARIA GIL, Elmhurst
KENNETH HERRMANN, JR., E. Pembroke
BLANCHE HUGHES, Riverdale
BERT KAPLAN, Old Bethpage
PAUL KURZMAN, New York City
ROLAND OSTROWER, New York City
KENNETH SKINNER, JR., Albany
BRAHNA WILCZYNSKI, Ossining

PHILIP R. JOHNSTON
Executive Secretary

The State Education Department does not discriminate on the basis of age, color, creed, disability, marital status, veteran status, national origin, race, or sex in the educational programs and activities which it operates. This policy is in compliance with Title IX of the Education Amendments of 1972. Inquiries concerning this policy may be referred to the Department's Affirmative Action Officer, Education Building, Albany, NY 12234.

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☐ This document has been reproduced as received from the person or organization originating it.
☒ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
Robert M. Trombley
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

CG 017688

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Albany, New York
1984

THE UNIVERSITY OF THE STATE OF NEW YORK

Regents of The University (with years when terms expire)

1988	WILLARD A. GENRICH, Chancellor, LL.B., L.H.D., LL.D., Litt.D., D.C.S., D.C.L., Sc.D.	Buffalo
1987	MARTIN C. BARELL, Vice Chancellor, B.A., I.A., LL.B., LL.D.	Muttontown
1986	KENNETH B. CLARK, A.B., M.S., Ph.D., LL.D., L.H.D., D.Sc.	Hastings on Hudson
1989	EMLYN I. GRIFFITH, A.B., J.D.	Rome
1991	JORGE L. BATISTA, B.A., J.D., LL.D.	Bronx
1986	LAURA BRADLEY CHODOS, B.A., M.A.	Vischer Ferry
1991	LOUISE P. MATTEONI, B.A., M.A., Ph.D.	Bayside
1988	J. EDWARD MEYER, B.A., LL.B., L.H.D.	Chappaqua
1987	R. CARLOS CARBALLADA, B.S., L.H.D.	Rochester
1988	FLOYD S. LINTON, A.B., M.A., M.P.A., D.C.L.	Miller Place
1988	SALVATORE J. SCLAFANI, E.S., M.D.	Staten Island
1989	MIMI LIEBER, B.A., M.A.	Manhattan
1985	SHIRLEY C. BROWN, B.A., M.A., Ph.D.	Albany
1990	ROBERT M. BEST, B.S.	Binghamton
1990	NORMA GLUCK, B.A., M.S.W.	Manhattan
1990	THOMAS R. FREY, A.B., LL.B.	Rochester

President of The University and Commissioner of Education
GORDON M. AMBACH

Executive Deputy Commissioner of Education
ROBERT J. MAURER

Deputy Commissioner for Higher and Professional Education
DONALD J. NOLAN

Assistant Commissioner for the Professions
THOMAS E. SHELDON

TABLE OF CONTENTS

	Page
Purpose	1
Qualifications	1
Limited Permit	1
Procedures	2
Handicapped Persons	2
Registration	2
Professional Conduct	2
The Examination	3
Insurance Qualification	6
The Law	7
Privileged Communication	26
Rules of Unprofessional Conduct	28
Regulation on Education	33
Limited Permits	33
General Regulations	33

NOTICE

CHANGES ARE CONSTANTLY MADE IN THE LAW AND RULES. THEREFORE, THE READER MUST BE AWARE THAT THE INFORMATION CONTAINED IN THIS BROCHURE IS INFORMATIONAL BUT MAY NOT BE TOTALLY CURRENT.

CONTACT THE STATE BOARD FOR SOCIAL WORK IF YOU HAVE ANY QUESTIONS.

PURPOSE

For many years the profession of social work has given recognition to the idea that assistance in furthering the social and emotional adjustment of people requires highly skilled professional service. Greater demand for these professional services and a proliferation of "counseling practitioners" who lack substantial professional training have made it necessary for the State to assume regulatory power and to assist the public through identification of standards for the safe professional practice of social work. The qualified professional is licensed to use the title "Certified Social Worker" (CSW) thus providing public identification of qualification.

TO QUALIFY FOR LICENSURE

U.S. Educated

As qualification for licensure, applicants must have a Master's Degree in Social Work from an approved graduate school and pass an examination acceptable to the State Board for Social Work. Certification of the completion of degree work will be required from the schools. (See Section 7704 of Article 154 of the Law, P. 26.)

Foreign Educated (Section 74.1 of the Regulations of the Commissioner of Education P. 34)

Special forms are necessary for application. Persons with social work education obtained outside the United States shall submit evidence of the following for admission to the State examination:

a. Completion of a graduate program in social work acceptable to the Department and consisting of not less than 60 semester hours of study or its equivalent as determined by the Department; and

b. Two years of supervised experience in social work in the United States satisfactory to the State Board for Social Work.

Without Examination (i.e. Endorsement, etc.)

Persons who have been licensed, certified, or registered in another state under laws with standards equivalent to those in New York State at the time of such licensure may be granted licensure without examination. This equivalency is determined by the information on Form 5-CSW filed by the state in which licensure was first obtained (applicants may request Form 5-CSW from the Department. Form 1 must also be filed). Where an examination was part of the qualification, the New York State Board must determine if it was the equivalent of the New York State examination. Applicants licensed or certified by examination must request that a copy of the examination be sent to the New York State Board for review.

LIMITED PERMIT

If your employer or potential employer requires that you be a Certified Social Worker, you may, along with the completed application forms, apply for a Limited Permit by filing Form 6-CSW (additional fee necessary). If approved, you may practice as a Certified Social

Worker until the results of the examination next held after issuance of the permit are released. The Board will issue such permits only when the need is verified by an employer and the permits are to be used only in conjuction with the agency named. (Regulations of the Commissioner of Education Section 74.2 P. 34)

PROCEDURES

Applications must be made on forms obtainable from the New York State Education Department. Full instructions accompany the forms. All application materials, including the transcript, MUST be on file at least 60 days before the examination which is usually held in September. Be sure to read all material carefully.

Forms can be obtained by writing to:

Social Work Unit
Division of Professional Licensing Services
New York State Education Department
Cultural Education Center
Albany, New York 12230

HANDICAPPED PERSONS

Any persons requiring special help or special conditions during the examination must request such help in advance. A letter specifying the problem and stating the help or conditions needed should be submitted with the application. A statement validating the need must be included.

REGISTRATION

Any use of the title Certified Social Worker or initials CSW requires current registration.

The initial registration of a licensed practitioner is automatic at the time of licensure. However, thereafter the practitioner is responsible for renewing the registration prior to the expiration date printed on it. The first registration fee submitted with the application for licensure is to provide registration during the triennium in which the person is licensed.

Renewal applications are automatically sent to all persons registered in the terminating triennium at the address on record (see section 59.8 of Commissioner's Regulations P. 34). If registration has been interrupted or a form has not been received by one month prior to the expiration of the triennium, the Certified Social Worker is responsible for requesting the application form. Law requires a penalty for late registration.

ALL CHANGES OF ADDRESS MUST BE REPORTED TO THE DIVISION OF PROFESSIONAL LICENSING SERVICES AT THE ABOVE ADDRESS WITHIN 30 DAYS.

PROFESSIONAL CONDUCT

All licensed practitioners are required to adhere to sound ethical practices. (See Section 6509 P. 16) Rules of unprofessional practice (see p. 29) have been adopted for the

professions. Violations should be reported by anyone to the Office of Professional Discipline, New York State Education Department, 622 Third Avenue, New York City 10017 (800-442-9106 or in New York City 557-2100). Complaints will be investigated and hearings conducted pursuant to Section 6510 of the Education Law (P. 18).

THE EXAMINATION

WHEN AND WHERE WILL THE EXAM BE GIVEN?

In the fall, usually mid-September, at testing centers in New York City, Albany, Syracuse, and Buffalo. The exact location will be contained on an admission card which will be sent to all candidates two to three weeks prior to the exam date.

Under certain circumstances "conditional" admission cards will be issued. An example is the situation in which a school sends a list of graduates in June with a note that candidate X probably will complete degree work in August. The applicant will be allowed to take the examination but release of grades will be dependent upon certification from the school that all work for the degree was completed prior to the date of the examination.

In other circumstances "conversion" of the "conditional" admission will be dependent upon alleviating the problem requiring the issuance of the "conditional" admission. Late filing of an application is not grounds for issuance of a "conditional" admission.

WHAT AREAS WILL THE EXAMINATION COVER?

The examination is comprehensive in structure, but a majority of the questions will relate to professional practice situations. The following is a brief list of the topics covered in the examination blueprint.

I. Theories of Human Development

II. Social Science Concepts

III. Factors and Influence in Social Work Practice

- A. Key Leaders
- B. Historical Developments
- C. Legislation

IV. Professional Practice

- A. Social Work Roles
- B. Social Work Skills
- C. Professional Relationships
- D. Planning and Organizational Functions on Behalf of Clients

V. Social Work Methods

- A. Principles
- B. Combinations

VI. Social Work Process

A. Assessment
B. Planning
C. Implementation
D. Evaluation

VII. Professional Values

VIII. Professional Self

IN WHAT FORM WILL THE QUESTIONS BE PRESENTED?

All questions (150) will be in the multiple-choice form. The examination will not be divided into subject sections. Three and one-half hours will be allowed for the examination.

CAN I HAVE AN OLD EXAM TO STUDY?

No, because development of good questions is very difficult, and therefore, questions are reused on subsequent examinations. We are building a "bank" of questions from which to draw the examinations, and the "bank" must be kept secure. However, questions in the bank are periodically reviewed, updated, and improved.

WHAT SHOULD BE STUDIED?

The Board does not recommend any type of cram preparation since the majority of the questions are related to practice situations and are not repetitious of knowledge.

WHY IS THE EXAMINATION GIVEN ONLY ONCE A YEAR?

The examination process is a costly procedure, and since there would be so few candidates at any other time of the year (most of the candidates are June graduates), it would be economically impractical to repeat the process.

SAMPLE QUESTIONS

1. In comparing casework and group process, similarity exists between which one of the following:

   a. support and consensual validation
   b. use of transference and use of group norms
   c. bio-psycho-social diagnosis and group assessment
   *d. consideration of presenting problem-real problem and stated purpose-unavowed purpose

2. A social worker is utilizing environmental manipulation as a technique when he

a. represents his agency at a health and welfare council meeting
b. uses a psychosocial framework
c. attempts to involve the client in social action projects
*d. helps the client to move into a new apartment

3. Health and welfare organizations in which social workers are employed, but in which disciplines are the sources of professional authority are known as

a. referral agencies
b. collaborating agencies
c. paraprofessional agencies
*d. host agencies

4. Which is a group with which an individual identified himself such that he tends to use the group as a standard for self-evaluation and as a source of his personal values and goals?

a. social group
*b. reference group
c. ethnic group
d. subculture group

5. When preparing to tell his clients that he is terminating employment with the social agency, a social worker first needs to

*a. be aware of his own feelings about separating from the agency
b. be aware that many of his clients will feel abandoned and will need encouragement to express these feelings
c. anticipate the variety of reactions he is likely to encounter as he prepares his clients for his departure
d. determine which clients should be prepared for transfer and which should terminate treatment

6. The use of which method brings about personality changes more readily for children than adults?

a. behavioral modification
*b. manipulating the environment
c. chemotherapy
d. psychotherapy

*Indicates correct answer

EXAM SCORING AND REPORTING

All examination papers are returned to Albany and machine-scored. Raw scores and other technical data regarding question performance on the examination are reviewed by the Board and a pass point set. Scores are then converted to grades on a scale of 100 with 75 the passing grade.

After the exam, there is a necessary time lapse in the report of grades to the examinees because of the development of permanent records. The large certificate for framing requires additional time for preparation.

REEXAMINATION

Persons failing the examination may apply for readmission to the next examination upon payment of the examination fee. Applications for reexamination should be filed at least 60 days before the exam.

INSURANCE QUALIFICATION

Chapter 893 of the Laws of 1977 provides for reimbursement to certain policy holders by insurance companies for services rendered by qualified social workers. To be qualified, a social worker must be licensed as a certified social worker and be approved by the State Board for Social Work for reimbursement purposes. (Sections 162 and 253 of the Insurance Law and Section 74.3 of the Regulations of the Commissioner of Education provides the basis for such approval.)

A special application must be made on forms supplied by the Education Department. This application can be made at the time of applying for licensure as a Certified Social Worker provided the applicant has three years of experience in providing psychotherapeutic services subsequent to the receipt of the master's degree in social work.

Those qualifying will receive a letter of qualification, and their names will be placed on a list of qualified persons. For further information contact:

State Board for Social Work
State Education Department
Cultural Education Center
Albany, New York 12230

ALL QUESTIONS REGARDING LICENSURE OR INSURANCE QUALIFICATION SHOULD BE DIRECTED TO THE EXECUTIVE SECRETARY OF THE STATE BOARD FOR SOCIAL WORK AT THE ADDRESS ABOVE.

Sec. SUBARTICLE 1. INTRODUCTORY SUMMARY

6500. Introduction

6501. Admission to a profession (licensing).

6502. Duration and registration of a license.

6503. Practice of a profession.

6504. Regulation of the professions.

6505. Construction.

6505a. Professional referrals.

SUBARTICLE 2. STATE MANAGEMENT

6506. Supervision by the board of regents.

6507. Administration by the education department.

6508. Assistance by state boards for the professions.

SUBARTICLE 3. PROFESSIONAL MISCONDUCT

6509. Definitions of professional misconduct.

6509a. Additional definition of professional misconduct; limited application.

6510. Proceedings in cases of professional misconduct.

6510a. Proceedings in cases of professional misconduct involving the medical profession.

6511. Penalties for professional misconduct.

SUBARTICLE 4. UNAUTHORIZED ACTS

6512. Unauthorized practice a crime.

6513. Unauthorized use of a professional title a crime.

6514. Criminal proceedings.

6515. Restraint of unlawful acts.

SUBARTICLE 1. INTRODUCTORY SUMMARY

§ 6500. Introduction

This title provides for the regulation of the admission to and the practice of certain professions. This first article applies to all the professions included in this title, except that prehearing procedures and hearing procedures in connection with the regulation of professional conduct of the profession of medicine shall be conducted pursuant to the provisions of Title II-A of article two of the public health law. Each of the remaining article applies to a particular profession.

§ 6501. Admission to a profession (licensing)

Admission to practice of a profession in this state is accomplished by a license being issued to a qualified applicant by the education department. To qualify for a license an applicant shall meet the requirements prescribed in the article for the particular profession.

§ 6502. Duration and registration of a license

1. A license shall be valid during the life of the holder unless revoked, annulled or suspended by the board of regents. A licensee must register with the department to practice in this state.

2. The department shall establish the beginning dates of the registration periods for each profession and mail an application for registration to every licensee currently registered at least four months prior to the beginning of the registration period for the respective profession.

3. An application for registration and the required registration fee shall be submitted together with or as a part of the application for a license. A person initially licensed or a licensee resuming practice after a lapse of registration in the last four months of a registration period shall be registered for the succeeding registration period without an additional registration fee. The department shall renew the registration of each licensee upon receipt of a proper application, on a form prescribed by the department, and the registration fee. Any licensee who fails to register by the beginning of the appropriate registration period shall be required to pay an additional fee for late filing of five dollars for each month that registration has been delayed while such licensee continued to practice his profession. The licensee resuming practice after a lapse of registration shall be permitted to practice without actual possession of the registration certificate for not more than four months after mailing to the department the required application fee.

4. Any licensee who is not engaging in the practice of his profession in this state and does not desire to register shall so advise the department. Such licensee may

subsequently register and resume practice without paying an additional fee for failure to register at the beginning of the registration period.

5. Licensees shall notify the department of any change of name or mailing address within thirty days of such change.

§ 6503. Practice of a profession

Admission to the practice of a profession (1) entitles the licensee to practice the profession as defined in the article for the particular profession, (2) entitles the individual licensee to use the professional title as provided in the article for the particular profession, and (3) subjects the licensee to the procedures and penalties for professional misconduct as prescribed in this article (sections sixty-five hundred nine, sixty-five hundred ten, and sixty-five hundred eleven).

§ 6504. Regulation of the professions

Admission to the practice of the professions (licensing) and regulation of such practice shall be supervised by the board of regents (section sixty-five hundred six) and administered by the education department (section sixty-five hundred seven), assisted by a state board for each profession (section sixty-five hundred eight).

§ 6505. Construction

No definition of the practice of a profession shall be construed to restrain or restrict the performance of similar acts authorized in the definition of other professions.

§ 6505 - a. Professional referrals

There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any association or society of professionals authorized to practice under this title, or any employee, agent, or member thereof, for referring any person to a member of the profession represented by such association or society provided that such referral was made without charge as a service to the public, and without malice, and in the reasonable belief that such referral was warranted, based upon the facts disclosed.

SUBARTICLE 2. STATE MANAGEMENT

§ 6506. Supervision by the board of regents

The board of regents shall supervise the admission to and the practice of the professions. In supervising, the board of regents may:

1. Promulgate rules;

2. Establish by rule, high school, preprofessional, professional and other educational qualifications required for licensing in the professions regulated by this title;

3. Charter schools offering educational programs for the professions regulated by this title, and no such school shall operate in this state without such a charter, except Columbia University, any school chartered by special act of the legislature prior to September one, nineteen hundred seventy-one, and schools specifically authorized to conduct such programs by the regents;

4. Appoint such committees as it deems necessary and compensate members of such committees who are not members of the board of regents or the department up to one hundred dollars per day for each day devoted to committee functions, together with their necessary expenses;

5. Waive education, experience and examination requirements for a professional license prescribed in the article relating to the profession, provided the board of regents shall be satisfied that the requirements of such article have been substantially met;

6. Indorse a license issued by a licensing board of another state or country upon the applicant fulfilling the following requirements:

   a. Application: file an application with the department;

   b. Education: meet educational requirements in accordance with the commissioner's regulations;

   c. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

   d. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

   e. Age: be at least twenty-one years of age;

   f. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States;

   g. Character: be of good moral character as determined by the department; and

h. Fees: pay a fee to the department for indorsement of forty dollars.

7. Direct the department to remedy any error, omission, delay or other circumstance in the issuance or registration of a license;

8. Designate a professional conduct officer, who shall be the chief administrative officer of the office of the professions, or his designee, in connection with professional licensing and misconduct proceedings and criminal matters, such officer to be empowered to issue subpoenas and administer oaths in connection with such proceedings;

9. Establish by rule, standards of conduct with respect to advertising, fee splitting, practicing under a name other than that of the individual licensee (when not specifically authorized), proper use of academic or professional degrees or titles tending to imply professional status, and such other ethical practices as such board shall deem necessary; and

10. Delegate to department officers the disposition of any licensing matters pursuant to rules.

§ 6507. Administration by the education department

1. The commissioner and the department shall administer the admission to and the practice of the professions.

2. In administering, the commissioner may:

a. Promulgate regulations;

b. Conduct investigations;

c. Issue subpoenas;

d. Grant immunity for prosecution in accordance with section 50.20 of the criminal procedure law to anyone subpoenaed in any investigation or hearing conducted pursuant to this title; and

e. Excuse, for cause acceptable to the commissioner, the failure to register biennially. Such excuse shall validate and authorize such practitioner's right to practice pending registration.

3. The department assisted by the board for each profession, shall:

a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each profession;

b. Review qualifications in connection with licensing requirements; and

c. Provide for licensing examinations and reexaminations.

4. The department shall:

a. Register or approve educational programs designed for the purpose of providing professional preparation which meet standards established by the department.

b. Issue licenses, registrations, and limited permits to qualified applicants;

c. (i) Issue a certificate of authority to a qualified professional service corporation being organized under section fifteen hundred three of the business corporation law on payment of a fee of twenty-five dollars, (ii) file a certified copy of each certificate of incorporation and amendment thereto within thirty days after the filing of such certificate or amendment on payment of a fee of ten dollars, (iii) file the annual statement required by section fifteen hundred fourteen of the business corporation law on payment of a fee of ten dollars.

d. Revoke limited permits on the recommendation of the committee on professional conduct for the profession concerned;

e. Maintain public records of licenses issued and retain in its files identifying data concerning each person to whom a license has been issued;

f. Collect the fees prescribed by this title or otherwise provided by law;

g. Prepare an annual report for the legislature, the governor and other executive offices, the state boards for the professions, professional societies, consumer agencies and other interested persons. Such report shall include but not be limited to a description and analysis of the administrative procedures and operations of the department based upon a statistical summary relating to (i) new licensure, (ii) discipline, (iii) complaint, investigation, and hearing backlog, (iv) budget, and (v) the state boards for the professions. Information provided shall be enumerated by profession; and

h. Establish an administrative unit which shall be responsible for the investigation, prosecution and determination of alleged violations of professional conduct.

5. The commissioner and the department shall perform any other functions necessary to implement this title.

§ 6508. Assistance by state boards for the professions

1. A board for each profession shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing, practice, and conduct. The composition of each board shall be as prescribed in the article relating to each profession. Within each board a committee on licensing may be appointed by the board chairman.

Except as provided in paragraph (a) of this subdivision, the membership of each professional licensing board shall be increased by one member, and each such board shall have at least one public representative who shall be selected by the board of regents from the general public.

a. The membership of the professional licensing boards created under sections sixty-five hundred twenty-three, sixty-eight hundred four, sixty-nine hundred three, and seventy-four hundred three of this chapter shall be increased by two members, and each such board shall have at least two public representatives, who shall be selected by the board of regents from the general public.

b. For the purposes of this title, a "public representative" shall be a person who is a consumer of services provided by those licensed or otherwise supervised or regulated by the boards created hereunder, and shall not be, nor within five years immediately preceding appointment have been:

(i) a licensee or person otherwise subject to the supervision or regulation of the board to which appointed; or

(ii) a person maintaining a contractual relationship with a licensee of such board, which would constitute more than two percentum of the practice or business of any such licensee, or an officer, director, or representative of such person or group of persons.

2. Each board, or its committee on licensing, shall select or prepare examinations, may conduct oral and practical examinations and reexaminations, shall fix passing grades, and assist the department in other licensing matters as prescribed by the board of regents.

3. Each board shall conduct disciplinary proceedings as prescribed in this article and shall assist in other professional conduct matters as prescribed by the board of regents.

4. Members of each board shall be appointed by the board of regents for five-year terms except that the terms of those first appointed shall be arranged so that as nearly as possible an equal number shall terminate annually. A vacancy occurring during a term shall be filled by an appointment by the board of regents for the unexpired term. Each state professional association or society may nominate one or more candidates for each appointment to be made to the board for its profession, but the board of regents shall not be required to appoint candidates so nominated. Former members of a board may be re-appointed by the board of regents, on the recommendation of the commissioner, to serve as members of the board solely for the purposes of disciplinary proceedings, proceedings relating to the moral character of an applicant for licensure, and proceedings relating to applications for the restoration of a professional license. Former board members so appointed may not comprise a majority of any panel.

5. Each member of a board shall receive a certificate of appointment, shall before beginning his term of office file a constitutional oath of office with the secretary of state, shall receive up to one hundred dollars as prescribed by the board of regents for each day devoted to board work, and shall be reimbursed for his necessary expenses. No member shall serve beyond the age of seventy. Any member may be removed from a board by the board of regents for misconduct, incapacity or neglect of duty.

6. Each board shall elect from its members a chairman and vice-chairman annually, shall meet upon call of the chairmen or the department, any may adopt bylaws consistent with this title and approved by the board of regents. A quorum for the transaction of business by the board shall be a majority of members but not less than five members.

7. An executive secretary to each board shall be appointed by the board of regents on recommendation of the commissioner. Such executive secretary shall not be a member of the board, shall hold office at the pleasure of, and shall have the powers, duties and annual salary prescribed by the board of regents.

SUBARTICLE 3. PROFESSIONAL MISCONDUCT

§ 6509. Definitions of professional misconduct

Each of the following is a professional misconduct, any licensee found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten shall be subject to the penalties prescribed in section sixty-five hundred eleven:

1. Obtaining the license fraudulently,

2. Practicing the profession fraudulently, beyond its authorized scope, with gross incompetence, with gross negligence on a particular occasion or negligence or incompetence on more than one occasion,

3. Practicing the profession while the ability to practice is impaired by alcohol, drugs, physical disability, or mental disability,

4. Being habitually drunk or being dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects,

5. a. Being convicted of committing an act constituting a crime under:

   (i) New York State law or,
   (ii) Federal law or,
   (iii) The law of another jurisdiction and which, if committed within this state, would have constituted a crime under New York State law;

   b. Having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in New York state, constitute professional misconduct under the laws of New York state;

   c. Having been found to be in violation of the applicable provisions of title seven of article thirty-three of the public health law by the commissioner of health,

6. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin,

7. Permitting, aiding or abetting an unlicensed person to perform activities requiring a license,

8. Practicing the profession while the license is suspended, or wilfully failing to register or notify the department of any change of name or mailing address, or if a professional service corporation wilfully failing to comply with sections fifteen hundred three and fifteen hundred fourteen of the business corporation law,

9. Committing unprofessional conduct, as defined by the board of regents in its rules or by the commissioner in regulations approved by the board of regents,

10. A willful violation by a licensed physician of subdivision eleven of section two hundred thirty of the public health law, or

11. A violation of section twenty-eight hundred three-d of the public health law.

§ 6509 - a. Additional definition of professional misconduct; limited application

Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of articles one hundred thirty-one, one hundred thirty-one-a, one hundred thirty-two, one hundred thirty-three, one hundred thirty-seven, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred fifty-six and one hundred fifty-nine of this chapter may be revoked, suspended or annulled or such person may be subject to any other penalty provided in section sixty-five hundred eleven of this article in accordance with the provisions and procedure of this article for the following:

That any person subject to the above enumerated articles, has directly or indirectly requested, received or participated in the division, transference, assignment, rebate, splitting or refunding of a fee for, or has directly requested, received or profited by means of a credit of other valuable consideration as a commission, discount or gratuity in connection with the furnishing of professional care, or service, including x-ray examination and treatment, or for or in connection with the sale, rental, supplying or furnishing of clinical laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artifical limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies or equipment, devices for aid of hearing, drugs, medication or medical supplies or any other goods, services or supplies prescribed for medical diagnosis, care or treatment, under this chapter, except payment, not to exceed thirty-three and one-third per centum of any fee received for x-ray examination, diagnosis or treatment, to any hospital furnishing facilities for such examination, diagnosis or treatment. Nothing contained in this section shall prohibit such persons from practicing as partners, in groups or as a professional corporation nor from pooling fees and moneys received, either by the partnerships, professional corporations or groups by the individual members, thereof, for professional services furnished by any individual professional member, or employee of such partnership, corporation or group, nor shall the professionals constituting the partnerships, corporation or groups be probitited from sharing, dividing or apportioning the fees and moneys received by them or by the partnership, corporation or group in accordance with a partnership or other agreement; provided that no such practice as partners, corporations or in groups or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to care and treatment under the workmen's compensation law except as expressly authorized by the workmen's compensation law. Nothing contained in this chapter shall prohibit a medical or dental expense indemnity corporation pursuant to its contract with the subscriber from prorationing a medical or dental expense indemnity allowance among two or more professionals in proportion to the services rendered by each such professional at the request of the subscriber, provided that prior to payment thereof such professionals shall submit both to the medical or dental expense indemnity corporation and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor.

§ 6510. Proceedings in cases of professional misconduct

In cases of professional misconduct the proceedings shall be as follows:

1. Preliminary procedures.

   a. Complaint. A complaint of a licensee's professional misconduct may be made by any person to the education department.

   b. Investigation. The department shall investigate each complaint which alleges conduct constituting professional misconduct. The results of the investigation shall be referred to the professional conduct officer designated by the board of regents pursuant to section sixty-five hundred six of this article. If such officer decides that there is not substantial evidence of professional misconduct or that further proceedings are not warranted, no further action shall be taken. If such officer, after consultation with a professional member of the applicable state board for the profession, determines that there is substantial evidence of professional misconduct, and that further proceedings are warranted, such proceedings shall be conducted pursuant to this section. If the complaint involves a question of professional expertise, then such officer may seek, and if so shall obtain, the concurrence of at least two members of a panel of three members of the applicable board.

   c. Charges. In all disciplinary proceedings other than those terminated by an administrative warning pursuant to paragraph a of subdivision two of this section, the department shall prepare the charges. The charges shall state the alleged professional misconduct and shall state concisely the material facts but not the evidience (sic) by which the charges are to be proved.

   d. Service of charges and of notice of hearing. A copy of the charges and notice of any hearing pursuant to subdivision two or three of this section shall be served on the licensee personally by the department at least fifteen days before the hearing. If personal service cannot be made after due diligence and such fact is certified under oath, a copy of the charges and the notice of hearing shall be served by certified mail, return receipt requested to the licensee's last known address by the department at least twenty days before the hearing.

2. Expedited procedures.

   a. Violations. Violations involving professional misconduct of a minor or technical nature may be resolved by expedited procedures as provided in paragraph b or c of this subdivision. For purposes of this subdivision, violations of a minor or technical nature shall include, but shall not be limited to, isolated instances of violations concerning professional advertising or record keeping, and other isolated violations which do not directly affect or impair the public health, welfare or safety. The board of regents shall make recommendations to the legislature on or before June first, nineteen hundred eighty-one, for the further definition of violations of a minor or technical nature. The initial instance of any violation of a minor or technical nature may be resolved by the issuance of an administrative warning pursuant to paragraph b of this subdivision. Sub-

sequent instances of similar violations of a minor or technical nature within a period of three years may be resolved by the procedure set forth in paragraph c of this subdivision.

b. Administrative warning. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial (sic) evidence of professional misconduct but that it is an initial violation of a minor or technical nature which would not justify the imposition of a more severe disciplinary penalty, the matter may be terminated by the issuance of an administrative warning. Such warnings shall be confidential and shall not constitute an adjudication of guilt or be used as evidence that the licensee is guilty of the alleged misconduct. However, in the event of a further allegation of similar misconduct by the same licensee, the matter may be reopened and further proceedings instituted as provided in this section.

c. Determination of penalty on uncontested minor violations. If a professional conduct officer, after consultation with a professional member of the state board, determines that there is substantial evidence of a violation of a minor or technical nature, and of a nature justifying a penalty as specified in this paragraph, the department may prepare and serve charges either by personal service or by certified mail, return receipt requested. Such charges shall include a statement that unless an answer is received within twenty days denying the charges, the matter shall be referred to a violations committee consisting of five members of the state board for the profession, at least one of whom shall be a public representative for determination. The violations panel shall be appointed by the executive secretary of the state board. The licensee shall be given at least fifteen days notice of the time and place of the meeting of the violations committee and shall have the right to appear in person and by an attorney and to make a statement to the committee in mitigation or explanation of the misconduct. The department may appear and make a statement in support of its position. The violations committee may issue a censure and reprimand, and in addition, or in the alternative, may impose a fine not to exceed five hundred dollars for each specification of minor, or technical misconduct. If the fine is not paid within three months the matter may be reopened and shall be subject to the hearing and regents decision procedures of this section. The determination of the panel shall be final and shall not be subject to the regents decision procedures of this section. If an answer is filed denying the charges, the matter shall be processed as provided in subdivision three of this section.

d. Convictions of crimes or administrative violations. In cases of professional misconduct based solely upon a violation of subdivision five of section sixty-five hundred nine of this article, the professional conduct officer may prepare and serve the charges and may refer the matter directly to a regents review committee for its review and report of its findings, determination as to guilt, and recommendation as to the measure of discipline to be imposed. In such cases the notice of hearing shall state that the licensee may file a written answer or brief; that the licensee may appear personally before the regents review committee and may be represented by counsel, and the notice may contain such other information as may be considered appropriate by the department. In lieu of referring

the matter to the board of regents, the regents review committee may refer any such matter for further proceedings pursuant to paragraph b or c of this subdivision or subdivision three of this section.

3. Adversary proceedings. Contested disciplinary proceedings and other disciplinary proceedings not resolved pursuant to subdivision two of this section shall be tried before a hearing panel of the appropriate state board as provided in this subdivision.

a. Notice of hearing. The department shall set the time and place of the hearing and shall prepare the notice of hearing. The notice of hearing shall state (1) the time and place of the hearing, (2) that the licensee may file a written answer to the charges prior to the hearing, (3) that the licensee may appear personally at the hearing and may be represented by counsel, (4) that the licensee shall have the right to produce witnesses and evidence in his behalf, to cross-examine witnesses and examine evidence produced against him, and to issue subpoenas in accordance with the provisions of the civil practice law and rules, (5) that a stenographic record of the hearing will be made, and (6) such other information as may be considered appropriate by the department.

b. Hearing panel. The hearing shall be conducted by a panel of five or more members of the applicable state board for the profession, at least one of whom shall be a public representative. The executive secretary for the applicable state board shall appoint the panel and shall designate its chairperson. In addition to said panel members, the department shall designate an administrative officer, admitted to practice as an attorney in the state of New York, who shall have the authority to rule on all motions, procedures and other legal objections and shall draft a report for the hearing panel which shall be subject to the approval of and signature by the panel chairperson on behalf of the panel. The administrative officer shall not be entitled to a vote.

c. Conduct of hearing. The evidence in support of the charges shall be presented by an attorney for the department. The licensee shall have the rights required to be stated in the notice of hearing. The panel shall not be bound by the rules of evidence, but its determination of guilt shall be based on substantial legal evidence. A hearing which has been initiated shall not be discontinued because of the death or incapacity to serve of one member of the hearing panel.

d. Results of hearing. The hearing panel shall render a written report which shall include (1) findings of fact, (2) a determination of guilty or not guilty on each charge, and (3) in the event of a determination of guilty, a recommendation of the penalty to be imposed. For the panel to make a determination of guilty, a minimum of four of the voting members of the panel must vote for such a determination. A copy of the report of the hearing panel shall be transmitted to the licensee.

4. Regents decision procedures.

a. Regents review committee. The transcript and report of the hearing panel shall be reviewed at a meeting by a regents review committee appointed by

the board of regents. The regents review committee shall consist of three members, at least one of whom shall be a regent.

b. Regents review committee meetings. The review shall be based on the transcript and the report of the hearing panel. the licensee may appear at the meeting, and the regents review committee may require the licensee to appear. The licensee may be represented by counsel. The department shall notify the licensee at least seven days before the meeting (1) of the time and place of the meeting, (2) of his right to appear, (3) of his right to be represented by counsel, (4) whether or not he is required to appear, and (5) of such other information as may be considered appropriate. After the meeting, the regents review committee shall transmit a written report of its review to the board of regents. In cases referred directly to the regents review committee pursuant to paragraph d of subdivision two of this section, the review shall be based upon the charges, the documentary evidence submitted by the department, and any answer, affidavits or brief the licensee may wish to submit.

c. Regents decision and order. The board of regents (1) shall consider the transcript, the report of the hearing panel, and the report of the regents review committee, (2) shall decide whether the licensee is guilty or not guilty on each charge, (3) shall decide what penalties, if any, to impose as prescribed in section sixty-five hundred eleven of this article, and (4) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the board of regents. If the board of regents disagrees with the hearing panel's determination of not guilty, it shall remand the matter to the original panel for reconsideration or to a new panel for a new hearing. The panel's determination of not guilty on reconsideration or a new hearing shall be final. The order shall be served upon the licensee personally or by certified mail to the licensee's last known address and such service shall be effective as of the date of the personal service or five days after mailing by certified mail. The licensee shall deliver to the department the license and registration certificate which has been revoked, annulled, suspended, or surrendered within five days after the effective date of the service of the order. If the license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, the licensee shall submit an affidavit to that effect, and shall deliver such license or certificate to the department when located.

5. Court review procedures. The decisions of the board of regents may be reviewed pursuant to the proceedings under article seventy-eight of the civil practice law and rules. Such proceedings shall be returnable before the appellate division of the third judicial department, and such decisions shall not be stayed or enjoined expect upon application to such appellate division after notice to the department and to the attorney general and upon a showing that the petitioner has a substantial likelihood of success.

6. The provisions of subdivisions one through four of this section shall not be applicable to proceedings in cases of professional misconduct involving the medical profession.

7. Notwithstanding any other provisions of the law, persons who assist the department as consultants or expert witnesses in the investigation or prosecution of alleged

professional misconduct, licensure matters, restoration proceedings, or criminal prosecutions for unauthorized practice, shall not be liable for damages in any civil action or proceeding as a result of such assistance, except upon proof of actual malice. The attorney general shall defend such persons in any such action or proceeding, in accordance with section seventeen of the public officers law.

8. The files of the department relating to the investigation of possible instances of professional misconduct, or the unlawful practice of any profession licensed by the board of regents, or the unlawful use of a professional title or the moral fitness of an applicant for a professional license or permit, shall be confidential and not subject to disclosure at the request of any person, except upon the order of a court in a pending action or proceeding. The provisions of this subdivision shall not apply to documents introduced in evidence at a hearing held pursuant to this chapter and shall not prevent the department from sharing information concerning investigations with other duly authorized public agencies responsible for professional regulation or criminal prosecution.

§ 6510a. Proceedings in cases of professional misconduct involving the medical profession

1. Prehearing procedures, hearing procedures and summary action procedures. Prehearing procedures, hearing procedures and summary action procedures in cases of professional misconduct involving the medical profession shall be conducted pursuant to the provisions of Title II-A of article two of the public health law.

2. Regents decision and order. Within sixty days of the transfer of a case of professional misconduct involving the medical profession by the commissioner of health pursuant to section two hundred thirty of the public health law, the board of regents (a) shall consider the transcript, exhibits and other evidence, if any, the findings, conclusions and recommendation of the committee on professional misconduct and the recommendation of the commissioner of health, (b) shall decide whether the licensee is guilty or not guilty on each charge, (c) shall decide what penalties, if any, to impose as prescribed in section sixty-five hundred eleven of this article, and (d) shall issue an order to carry out its decisions. Such decisions shall require the affirmative vote of a majority of the members of the board.

3. Time limitations.

a. No failure to comply with a provision of this section requiring that a specified action shall be taken within a specified period of time shall affect the validity of the action taken.

b. The time limitations specified in this section for the completion of specified actions may be extended, upon application of a licensee or his attorney, for good cause shown, upon application made prior to the expiration of such time limitations.

4. Court review procedures. The decisions of the board of regents may be reviewed pursuant to the proceedings under article seventy-eight of the civil practice law and rules. Such proceedings shall be returnable before the appellate division of the third judicial department, and such decisions shall not be stayed or enjoined except upon application to such appellate division after notice to the attorney general.

§ 6511. Penalties for professional misconduct

The penalties which may be imposed by the board of regents on a present or former licensee found guilty of professional misconduct (under the definitions and proceedings prescribed in sections sixty-five hundred nine, sixty-five hundred ten and sixty-five hundred ten-a of this article) are: (1) censure and reprimand, (2) suspension of license, (a) wholly, for a fixed period of time; (b) partially, until the licensee successfully completes a course of retraining in the area to which the suspension applies; (c) wholly, until the licensee successfully completes a course of therapy or treatment prescribed by the regents; (3) revocation of license, (4) annulment of license or registration, (5) limitation on registration or issuance of any further license, (6) a fine not to exceed ten thousand dollars, upon each specification of charges of which the respondent is determined to be guilty, (7) a requirement that a licensee pursue a course of education or training, and (8) a requirement that a licensee perform up to one hundred hours of public service, in a manner and at a time and place as directed by the board. The board of regents may stay such penalties in whole or in part, may place the licensee on probation and may restore a license which has been revoked. Any fine imposed pursuant to this section or pursuant to subdivision two of section sixty-five hundred ten of this article may be sued for and recovered in the name of the people of the state of New York in an action brought by the attorney general. In such action the findings and determination of the board of regents or of the violations committee shall be admissible evidence and shall be conclusive proof of the violation and the penalty assessed.

SUBARTICLE 4. UNAUTHORIZED ACTS

§ 6512. Unauthorized practice a crime

1. Anyone not authorized to practice under this title who practices or offers to practice or holds himself out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who practices any profession as an exempt person during the time when his professional license is suspended, revoked or annulled, or who aids or abets an unlicensed person to practice a profession, or who fraudulently sells, files, furnishes, obtains, or who attempts fraudulently to sell, file, furnish or obtain any diploma, license, record or permit purporting to authorize the practice of a profession, shall be guilty of a class E felony.

2. Anyone who knowingly aids or abets three or more unlicensed persons to practice a profession or employs or holds such unlicensed persons out as being able to practice in any profession in which a license is a prerequisite to the practice of the acts, or who knowingly aids or abets three or more persons to practice any profession as exempt persons during the time when the professional licenses of such persons are suspended, revoked or annulled, shall be guilty of a class E felony.

§ 6513. Unauthorized use of a professional title a crime

1. Anyone not authorized to use a professional title regulated by this title, and who uses such professional title, shall be guilty of a class A misdemeanor.

2. Anyone who knowingly aids or abets three or more persons not authorized to use a professional title regulated by this title, to use such professional title, or knowingly employs three or more persons not authorized to use a professional title regulated by this title, who use such professional title in the course of such employment, shall be guilty of a class E felony.

§ 6514. Criminal proceedings

1. All alleged violations of sections sixty-five hundred twelve or sixty-five hundred thirteen of this article shall be reported to the department which shall cause an investigation to be instituted. If the investigation substantiates that violations exist, such violations shall be reported to the attorney general with a request for prosecution.

2. The attorney general shall prosecute such alleged offenses in the name of the state, provided, however, in the event of alleged violations of article one hundred fifty-five of this title occurring in cities with a population of one million or more, a district attorney may prosecute such alleged offenses in the name of the state provided, however, that any district attorney may prosecute such offenses where they are incidental to a criminal prosecution instituted by him under other statutes.

3. All criminal courts having jurisdiction over misdemeanors are hereby empowered to hear, try and determine alleged violations under this title, which constitute misdemeanors, without indictment and to impose applicable punishment of fines or imprisionments or both. It shall be necessary to prove in any prosecution under this title only a single prohibited act or a single holding out without proving a general course of conduct.

4. A proceeding before a committee on professional conduct shall not be deemed to be a criminal proceeding within the meaning of this section.

§ 6515. Restraint of unlawful acts

Where a violation of this title is alleged to have occurred, the attorney general or, in the event of alleged violations of article one hundred fifty-five of this title occurring in cities having a population of one million or more, the corporation counsel may apply to the supreme court within the judicial district in which such violation is alleged to have occurred for an order enjoining or restraining commission or continuance of the unlawful acts complained of. The court shall have jurisdiction of the proceedings and shall have power to grant such temporary relief or restraining order as it deems just and proper. In any such proceeding it shall be necessary to allege or prove that an adequate remedy at law does not exist or that irreparable damage would result if such order were not granted. The remedy provided in this section shall be in addition to any other remedy provided by law or to the proceedings commended against a licensee under this title.

ARTICLE 154

SOCIAL WORK

Section 7700. Introduction
7701. Definition of Practice as a "certified social worker".
7702. Use of the title "certified social worker".
7703. State board for social work.
7704. Requirements for a professional license.
7705. Limited permits.

§7700. **Introduction.** This article applies to the use of the title "certified social worker". The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§7701. **Definition of practice as a "certified social worker".** The practice of social work as a "certified social worker" is defined as engaging, under such title, in social casework, social groupwork, community organization, administration of a social work program, social work education, social work research, or any combination of these in accordance with social work principles and methods. The practice of social work is for the purpose of helping individuals, families, groups and communities to prevent or to resolve problems caused by social or emotional stress.

§7702. **Use of the title "certified social worker".** Only a person licensed under this article shall be authorized to use the title "certified social worker".

§7703. **State board for social work.** A state board for social work shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than seven certified social workers licensed in this state. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a certified social worker licensed in this state.

§7704. **Requirements for professional license.** To qualify for a license as a "certified social worker" an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including a master's or equivalent degree in social work, in accordance with the commissioner's regulations;

3. Experience: meet no requirement as to experience;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least twenty-one years of age;

6. Citizenship: meet no requirement as to United States citizenship;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of eighty dollars to the department for admission to a department conducted examination and for an initial license, a fee of forty dollars for each reexamination, a fee of fifty dollars for an initial license for persons not requiring admission to a department conducted examination, a fee of thirty dollars for each biennial registration, and for additional authorization for the purposes of subdivision sixteen of section one hundred sixty-two and subdivision eight of section two hundred fifty-three of the insurance law, fifty dollars.

§7705. **Limited permits.** 1. On recommendation of the board, the department may issue a limited permit to practice social work as a certified social worker to an applicant whose qualifications have been approved for admission to the examination. This limited permit shall be valid for a period of not more than eighteen months or until the results of the next licensing examination for which the person is eligible are officially available, whichever comes first.

2. Fees. The fee for each limited permit shall be twenty dollars.

PRIVILEGED COMMUNICATION

CIVIL PRACTICE LAWS AND RULES

§4508. **Social Worker.** A person duly registered as a certified social worker under the provisions of article one hundred fifty-four of the education law shall not be required to disclose a communication made by his client to him, or his advice given thereon, in the course of his professional employment, nor shall any clerk, stenographer or other person working for the same employer as the certified social worker or for the certified social worker be allowed to disclose any such communication or advice given thereon; except

1. that a certified social worker may disclose such information as the client may authorize;

2. that a certified social worker shall not be required to treat as confidential a communication by a client which reveals the contemplation of a crime or harmful act;

3. where the client is a child under the age of sixteen and the information acquired by the certified social worker indicates that the client has been the victim or subject of a crime, the certified social worker may be required to

testify fully in relation thereto upon any examination, trial or other proceeding in which the commission of such crime is a subject of inquiry;

4. where the client waives the privilege by bringing charges against the certified social worker pursuant to section sixty-five hundred nine of the education law where such charges involve confidential communication between the client and certified social worker.

Part 29

UNPROFESSIONAL CONDUCT

(Statutory authority: Education Law §§ 6506)

Sec.

29.1 General provisions for all professions

29.2 General provisions for health professions

29.3 General provisions for design professions

29.4 Special provisions for the profession of medicine

29.5 Special provisions for the professions of dentistry and dental hygiene

29.6 Special provisions for the profession of veterinary medicine

29.7 Special provisions for the profession of pharmacy

29.8 Special provisions for the profession of optometry

29.9 Special provisions for the profession of ophthalmic dispensing

29.10 Special provisions for the profession of public accountancy

29.11 Special provisions for the profession of certified shorthand reporting

29.12 Special provisions for the profession of psychology

29.13 Special provisions for the profession of massage

Section 29.1 General provisions for all professions.

(a) Unprofessional conduct shall be the conduct prohibited by this section. The provisions of these rules applicable to a particular profession may define additional acts or omissions as unprofessional conduct and may define additional acts or omissions as unprofessional conduct and may establish exceptions to these general prohibitions.

(b) Unprofessional conduct in the practice of any profession licensed or certified pursuant to title VIII of the Education Law shall include:

(1) willful or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of the profession;

(2) exercising undue influence on the patient or client, including the promotion of the sale of services, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party;

(3) directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or client or in connection with the performance of professional services;

(4) permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice the same profession, or a legally authorized trainee practicing under the supervision of a licensed practitioner. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services used by a professional licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to article 28 of the Public Health Law or article 13 of the Mental Hygiene Law;

(5) conduct in the practice of a profession which evidences moral unfitness to practice the profession;

(6) willfully making or filing a false report, or failing to file a report required by law or by the Education Department, or willfully impeding or obstructing such filing, or inducing another person to do so;

(7) failing to make available to a patient or client, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client;

(8) revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law;

(9) practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger;

(10) delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them;

(11) performing professional services which have not been duly authorized by the patient or client or his or her legal representative;

(12) advertising or soliciting for patronage that is not in the public interest:

(i) Advertising or soliciting not in the public interest shall include but not be limited to advertising or soliciting that:

(a) is false, fraudulent, deceptive, misleading, sensational or flamboyant;
(b) represents intimidation or undue pressure;
(c) uses testimonials;

(d) guarantees any service;

(e) makes any claim relating to professional services or products or the cost or price therefor which cannot be substantiated by the licensee, who shall have the burden of proof;

(f) makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof;

(g) offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product;

(ii) The following shall be deemed appropriate means of informing the public of the availability of professional services:

(a) informational advertising not contrary to the foregoing prohibitions; and

(b) the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of prices, for specified routine professional services, provided that there is an additional charge for related services which are an integral part of the overall service being provided by the licensee and the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect;

(iii) (a) all licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, or videotape thereof as appropiate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the Education Department or in the case of physicians, physician's and specialist's assistants, the Department of Health;

(b) a licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;

(iv) No demonstrations, dramatizations or other portrayals of professional practice shall be permitted in advertising on radio or television;

(13) failing to respond within 30 days to written communications from the Education Department or the Department of Health and to make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct. The period of 30 days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from either department by registered or certified mail, with return receipt requested, to the address appearing in the last registration the period of 30 days shall commence on the date of delivery to the licensee, as indicated by the return receipt.

(14) violating any term of probation or condition or limitation imposed on the licensee by the Board of Regents pursuant to Education Law section 6511.

29.2 General provisions for health professions.

(a) Unprofessional conduct shall also include, in the professions of:

medicine	ophthalmic dispensing
acupuncture	psychology
physical therapy	social work
physician's assistant	massage
specialist's assistant	occupational therapy
chiropractic	speech pathology
dentistry	audiology
dental hygiene	nursing
podiatry	(registered professional nurse,
optometry	licensed practical nurse):
pharmacy	

(1) abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care, or abandoning a professional employment by a group practice, hospital, clinic or other health care facility, without reasonable notice and under circumstances which seriously impair the delivery of professional care to patients or clients;

(2) willfully harassing, abusing or intimidating a patient either physically or verbally;

(3) failing to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient. Unless otherwise provided by law, all patient records must be retained for at least six years. Obstetrical records and records of minor patients must be retained for at least six years, and until one year after the minor patient reaches the age of 21 years;

(4) using the word "Doctor" in offering to perform professional services without also including the profession in which the licensee holds a doctorate;

(5) failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional;

(6) upon a patient's written request, failing to make available to a patient, or, to another licensed health practitioner consistent with that practitioner's authorized scope of practice, copies of the record required by paragraph (3) of this subdivision and copies of reports, test records, evaluations or X-rays relating to the patient which are in possession or under the control of the licensee, or failing to complete forms or reports required for the reimbursement of a patient by a third party. Reasonable fees may be charged for such copies, forms or reports, but prior payment for the professional services to which such records relate may not be required as a condition for making such reports available. A practitioner may, however, withhold information from a patient if, in the reasonable exercise of his or her professional judgment, he or she believes release of such information would adversely affect the patient's health, and this section shall not require release, to the parent or guardian of a minor, of records or information relating to venereal disease or abortion except with the minor's consent. This provision shall apply in lieu of section 29.1(b)(7) of this Part;

(7) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(8) ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;

(9) claiming or using any secret or special method of treatment which the licensee refuses to divulge to the State Board for the profession;

(10) failing to wear an identifying badge, which shall be conspicuously displayed and legible, indicating the practitioner's name and professional title authorized pursuant to the Education Law, while practicing as an employee or operator of a hospital, clinic, group practice or multiprofessional facility, or at a commercial establishment offering health services to the public;

(11) entering into an arrangement with the pharmacy for the compounding and/or dispensing of coded or specially marked prescriptions;

(12) with respect to all professional practices conducted under an assumed name, other than facilities licensed pursuant to article 28 of the Public Health Law or article 13 of the Mental Hygiene Law, failing to post conspicuously at the site of such practice the names and licensure field of all of the principal professional licensees engaged in practice at that site (i.e., principal partners, officers or principal shareholders).

REGULATION ON EDUCATION

Section 74.1 Professional study of social work. To meet the professional education requirement for admission to the examination, the applicant shall present evidence of:

(a) completion of a program of graduate social work education registered by the department or accredited by an accrediting organization acceptable to the department; or

(b) where a program of education is completed outside the United States:

(1) completion of a graduate program in social work acceptable to the department and consisting of not less than 60 semester hours of study or its equivalent as determined by the department; and

(2) two years of supervised experience in social work in the United States satisfactory to the State Board for Social Work.

LIMITED PERMITS

74.2 Limited permits. Limited permits, provided for in section 7705 of the Education Law, shall not be renewable and shall:

(a) be issued only if an otherwise eligible applicant has not failed the licensing examination; and

(b) be issued for a specific employment setting and then only if the employer requires licensure as a social worker as a condition for employment.

GENERAL REGULATIONS

59.7 Licenses and initial registrations. When the candidate fulfills all requirements for licensure, the department shall issue a first registration certificate and a license. The first registration shall be for the remainder of the applicable registration period, except that those persons initially licensed during the last four months of a registration period shall be registered for the succeeding registration period without an additional fee.

59.8 Registration for professional practice. (a) Each licensee shall be responsible for registering with the department. Failure to register shall subject the practitioner to the late fee set forth in section 6502 (3) of the Education Law. Any practitioner who willfully refuses to register shall be subject to the penalties set forth in section 6511 of such law.

(b) A licensee not practicing or using a restricted title in New York State or an individual practicing only in a setting which is exempt from licensure in accordance with law may allow registration to lapse without being subject to the late fee set forth in section 6502 of the Education Law, by notifying the department of their cessation of practice or

exemption in the state. At such time as the licensee may choose to resume practice or enter practice in a non-exempt setting in New York State, a registration certificate may be issued upon the filing of a proper application and the payment of the required registration fee.

(c) Registration certificates shall be conspicuously displayed by each licensee in each office in which the profession is practiced. In instances where licensees regularly practice at more than one professional office, registration certificates shall be obtained for each office bearing the licensee's name and the exact address of each such office upon making proper application to the department and submitting a fee. Where practice is carried on in other than individual offices, each licensee shall have a current registration certificate available for inspection at all times.

(d) Deleted.

(e) Beginning dates for new three-year (triennial) registration periods shall be as follows:

... Social Work 3/1/84

(f) Each professional practitioner shall notify the department of any change of name or address in writing not later than 30 days after such change.

59.9 Special service fees. The department will charge the following fees for special services not otherwise provided by Education Law:

(a) for the issuance of a trainee permit in ophthalmic dispensing, $15;

(b) for certification of completion of pharmacy internship, $10;

(c) for admission to the history section of the technical examination in landscape architecture, $50 and for each subsequent reexamination, $50, the remainder of the fee set forth in Section 7324 of the Education Law to be paid prior to admission to the remainder of the examination;

(d) for certification of licensure or examination grades to another jurisdiction, $20;

(e) for certification in acupuncture of a licensed physician or dentist, $50;

(f) for the issuance of an additional registration certificate, $5;

(g) for the issuance of a letter of eligibility to undertake clinical clerkships, $30;

(h) for the issuance of a Medical Sciences Knowledge Profile (MSKP) or satisfactory equivalent examination certificate to undertake clinical clerkships, $20.

59.10 Professional service corporations. (a) Applications to the State Education Department for the issuance of a certificate pursuant to Business Corporation Law section 1503 (b) (ii) shall be made by submitting to the department a fully executed certificate of incorporation which complies with the provisions of such section and of section 1512 of such law, and which sets forth or has annexed to it an affidavit of one of the original officers, directors or shareholders of the corporation setting forth the name of each individual who is to be one of the original shareholders, directors or officers of the corporation.

(b) If the name of a proposed professional service corporation contains the name of a deceased person, the certificate of incorporation, when submitted to the department for the issuance of a certificate pursuant to Business Corporation Law section 1503 (b) (ii) shall be accompanied by an affidavit of one of the subscribers to the certificate of incorporation establishing compliance with the provisions of Business Corporation Law section 1512 (a) (2).

(c) A certificate pursuant to Business Corporation Law section 1503 (b) (ii) may be issued when:

(1) the proposed name of the corporation appropriately describes the profession practiced and the services to be provided;

(2) if the proposed name of the corporation includes a reference to a specialized area of professional practice, satisfactory evidence is submitted of compliance with any provision of Part 29 of the Rules of the Board of Regents restricting or regulating the use of specialty titles or announcements of limitations of practice in the particular profession.